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PTO/SB/61 (4-0-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

First named inventor: ASHLEY STUART DAVIS

Group Art Unit: 1653

Application Number: 09/725,030

Examiner: DAVID LUKTON

Filed: 11/29/2000

Title: ANTI-S-PHASE TUBULIN LIGANDS

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

RECEIVED
OCT 15 2002

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee--required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay

1. Petition fee

☒ small entity - fee \$ 55.00 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of LETTER BY FEDEX (identify the type of reply):

☒ has been filed previously on 31st JULY 2002
☒ is enclosed herewith. Letter

B. The issue fee of \$ 55.00

☐ has been paid previously on _____
☒ is enclosed herewith.

[Page 1 of 3]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity of \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

10/8/2002
Date

Telephone
Number: (303) 322 2254

A.S. Davis
Signature

A. S. DAVIS
Typed or printed name

1830 S. Acoma St.
Address

DENVER CO 80223. USA.

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

10/9/2002
Date

A.S. Davis
Signature

A. S. DAVIS
Typed or printed name of person signing certificate

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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

10/8/2002
Date




Signature

A. S. DAVIS
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply)

Adequate showing of unavoidable delay

As soon as it was apparent that the patent was deemed abandoned (see attached Letter dated July 31st 2002 to the USPTO) a letter was sent to revive it (letter dated 31st July 2002). We never received a letter alerting us to this point and that is witnessed by Dr. Kim Middleton (CEO & President) and myself. Cytoskeleton Inc. has eleven employees and in such a small company there are checks, payroll, insurance and USPTO letters delivered to the same address, therefore it is necessary for Dr. Kim Middleton and myself to open all the mail directly. Both Dr. Kim Middleton and myself state by signing below that neither of us has ever received a letter stating that Patent Application 09/725,030 was due for abandonment.

(Please attach additional sheets if additional space is necessary)